AUTHOR INDEX TO ARTICLES

AREEDA, PHILLIP—Monopolization, Mergers, and Markets: A Century Past and the Future 959

BANKMAN, JOSEPH & GRIFFITH, THOMAS—Social Welfare and the Rate Structure: A New Look at Progressive Taxation 1905

BARNETT, RANDY E.—Squaring Undisclosed Agency Law with Contract Theory 1969

BAXTER, WILLIAM F.—The Viability of Vertical Restraints Doctrine 933

BERRING, ROBERT C.—Legal Research and Legal Concepts: Where Form Molds Substance 15

BREYER, STEPHEN G.—Antitrust, Deregulation, and the Newly Liberated Marketplace ... 1005

BUXBAUM, RICHARD M.—The Threatened Constitutionalization of the Internal Affairs Doctrine in Corporation Law 29

CARTER, BARRY E.—International Economic Sanctions: Improving the Haphazard U.S. Legal Regime 1159

CHOPER, JESSE H.—The Establishment Clause and Aid to Parochial Schools—An Update 5

COOMBS, MARY I.—Shared Privacy and the Fourth Amendment, or the Rights of Relationships 1593

COONS, JOHN E.—Consistency 59

DEGNAN, RONAN E.—*Livingston v. Jefferson*—A Freestanding Footnote 115

DRIPPS, DONALD A.—The Constitutional Status of the Reasonable Doubt Rule 1665

DWYER, JOHN P.—Pendent Jurisdiction and the Eleventh Amendment 129

EASTERBROOK, FRANK H.—Comparative Advantage and Antitrust Law 983

FOX, ELEANOR M.—The Battle for the Soul of Antitrust 917

GOLDSCHMID, HARVEY J.— Horizontal Restraints in Antitrust: Current Treatment and Future Needs 925

GORDLEY, JAMES—Law and Religion: An Imaginary Conversation with a Medieval Jurist 169

GRIFFITH, THOMAS & BANKMAN, JOSEPH—Social Welfare and the Rate Structure: A New Look at Progressive Taxation 1905

HANSEN, CHARLES A. & HETLAND, JOHN R.—The "Mixed Collateral" Amendments to California's Commercial Code—Covert Repeal of California's Real Property Foreclosure and Antideficiency Provisions or Exercise in Futility? 185

HERZOG, DON—As Many as Six Impossible Things Before Breakfast 609

HETLAND, JOHN R. & HANSEN, CHARLES A.—The "Mixed Collateral" Amendments to California's Commercial Code—Covert Repeal of California's Real Property Foreclosure and Antideficiency Provisions or Exercise in Futility? 185

JOHNSON, PHILLIP E.—Some Thoughts About Natural Law 217

JORDE, THOMAS M.—Antitrust and the New State Action Doctrine: A Return to Deferential Economic Federalism 227

KADISH, SANFORD H.—Excusing Crime 257

KAHN, ALFRED E.—Deregulatory Schizophrenia 1059

KAUPER, THOMAS E.—The Sullivan Approach to Horizontal Restraints 893

KAY, HERMA HILL—An Appraisal of California's No-Fault Divorce Law 291

KRAGEN, ADRIAN A.—Arthur H. Sherry—*In Memoriam* 547

LITTLETON, CHRISTINE A.—Reconstructing Sexual Equality 1279

LITVACK, SANFORD M.—The Future Viability of the Current Antitrust Treatment of Vertical Restraints 955

MALINA, MICHAEL—Some Thoughts on Monopoly, Markets, and Mergers 997

MORAN, RACHEL F.—Bilingual Education as a Status Conflict 321

MORREIM, E. HAAVI—Cost Containment and the Standard of Medical Care 1719

NONET, PHILIPPE—In the Matter of *Green v. Recht* 363

PITOFSKY, ROBERT—Antitrust in the Next 100 Years 817

POLLOCK, EARL E.—Vertical Restraints and the Secularization of Antitrust 951

POST, ROBERT C.—On the Popular Image of the Lawyer: Reflections in a Dark Glass ... 379
RIESENFELD, STEPHAN A.—Classification of Claims and Interests in Chapter 11 and 13 Cases ... 391
RIESENFELD, STEPHAN A.—The Powers of Congress and the President in International Relations: Revisited ... 405
ROWE, FREDERICK M.—Market as Mirage ... 991
SCHEIBER, HARRY N.—State Law and "Industrial Policy" in American Development, 1790-1987 ... 415
SCHWARTZ, LOUIS B.—Some Additional Safeguards for the Newly Liberated Marketplace ... 1049
SCOTT, ROBERT E.—Conflict and Cooperation in Long-Term Contracts ... 2005
SELZNICK, PHILIP—The Idea of a Communitarian Morality ... 445
SMITH, MICHAEL E.—Sho Sato—*In Memoriam* ... 543
SUGARMAN, STEPHEN D.—Short Term Paid Leave: A New Approach to Social Insurance and Employee Benefits ... 465
SULLIVAN, LAWRENCE A.—The Viability of the Current Law on Horizontal Restraints ... 835
SWIFT, ELEANOR—A Foundation Fact Approach to Hearsay ... 1339
SWIFT, ELEANOR—Abolishing the Hearsay Rule ... 495
TURNER, DONALD F.—The Durability, Relevance, and Future of American Antitrust Policy ... 797
WEISS, ELLIOTT J. & WHITE, LAWRENCE J.—Of Econometrics and Indeterminacy: A Study of Investors' Reactions to "Changes" in Corporate Law ... 551
WHITE, LAWRENCE J. & WEISS, ELLIOTT J.—Of Econometrics and Indeterminacy: A Study of Investors' Reactions to "Changes" in Corporate Law ... 551
WRIGHT, CHARLES ALAN—A Farewell Toast to Ron Degnan ... 1587
ZIMRING, FRANKLIN E.—Legal Perspectives on Family Violence ... 521

TITLE INDEX TO ARTICLES

ABOLISHING THE HEARSAY RULE—*Eleanor Swift* ... 495
ANTITRUST AND THE NEW STATE ACTION DOCTRINE: A RETURN TO DEFERENTIAL ECONOMIC FEDERALISM—*Thomas M. Jorde* ... 227
ANTITRUST, DEREGULATION, AND THE NEWLY LIBERATED MARKETPLACE—*Stephen G. Breyer* ... 1005
ANTITRUST IN THE NEXT 100 YEARS—*Robert Pitofsky* ... 817
AN APPRAISAL OF CALIFORNIA'S NO-FAULT DIVORCE LAW—*Herma Hill Kay* ... 291
ARTHUR H. SHERRY—*In Memoriam—Adrian A. Kragen* ... 547
AS MANY AS SIX IMPOSSIBLE THINGS BEFORE BREAKFAST—*Don Herzog* ... 609
THE BATTLE FOR THE SOUL OF ANTITRUST—*Eleanor M. Fox* ... 917
BILINGUAL EDUCATION AS A STATUS CONFLICT—*Rachel F. Moran* ... 321
CLASSIFICATION OF CLAIMS AND INTERESTS IN CHAPTER 11 AND 13 CASES—*Stephan A. Riesenfeld* ... 391
COMPARATIVE ADVANTAGE AND ANTITRUST LAW—*Frank H. Easterbrook* ... 983
CONFLICT AND COOPERATION IN LONG-TERM CONTRACTS—*Robert E. Scott* ... 2005
CONSISTENCY—*John E. Coons* ... 59
THE CONSTITUTIONAL STATUS OF THE REASONABLE DOUBT RULE—*Donald A. Dripps* ... 1665
COST CONTAINMENT AND THE STANDARD OF MEDICAL CARE—*E. Haavi Morreim* ... 1719
DEREGULATORY SCHIZOPHRENIA—*Alfred E. Kahn* ... 1059
THE DURABILITY, RELEVANCE, AND FUTURE OF AMERICAN ANTITRUST POLICY—*Donald F. Turner* ... 797
THE ESTABLISHMENT CLAUSE AND AID TO PAROCHIAL SCHOOLS—AN UPDATE—*Jesse H. Choper* ... 5
EXCUSING CRIME—*Sanford H. Kadish* ... 257
A FAREWELL TOAST TO RON DEGNAN—*Charles Alan Wright* ... 1587
A FOUNDATION FACT APPROACH TO HEARSAY—*Eleanor Swift* ... 1339
THE FUTURE VIABILITY OF THE CURRENT ANTITRUST TREATMENT OF VERTICAL RESTRAINTS—*Sanford M. Litvack* ... 955

HORIZONTAL RESTRAINTS IN ANTITRUST: CURRENT TREATMENT AND FUTURE NEEDS—*Harvey J. Goldschmid* 925
THE IDEA OF A COMMUNITARIAN MORALITY—*Philip Selznick* 445
IN THE MATTER OF *Green v. Recht*—*Philippe Nonet* 363
INTERNATIONAL ECONOMIC SANCTIONS: IMPROVING THE HAPHAZARD U.S. LEGAL REGIME—*Barry E. Carter* 1159
LAW AND RELIGION: AN IMAGINARY CONVERSATION WITH A MEDIEVAL JURIST—*James Gordley* 169
LEGAL PERSPECTIVES ON FAMILY VIOLENCE—*Franklin E. Zimring* 521
LEGAL RESEARCH AND LEGAL CONCEPTS: WHERE FORM MOLDS SUBSTANCE—*Robert C. Berring* 15
LIVINGSTON V. JEFFERSON—A FREESTANDING FOOTNOTE—*Ronan E. Degnan* 115
MARKET AS MIRAGE—*Frederick M. Rowe* 991
THE "MIXED COLLATERAL" AMENDMENTS TO CALIFORNIA'S COMMERCIAL CODE—COVERT REPEAL OF CALIFORNIA'S REAL PROPERTY FORECLOSURE AND ANTIDEFICIENCY PROVISIONS OR EXERCISE IN FUTILITY?—*John R. Hetland & Charles A. Hansen* 185
MONOPOLIZATION, MERGERS, AND MARKETS: A CENTURY PAST AND THE FUTURE—*Phillip Areeda* 959
OF ECONOMETRICS AND INDETERMINACY: A STUDY OF INVESTORS' REACTIONS TO "CHANGES" IN CORPORATE LAW—*Elliott J. Weiss & Lawrence J. White* 551
ON THE POPULAR IMAGE OF THE LAWYER: REFLECTIONS IN A DARK GLASS—*Robert C. Post* 379
PENDENT JURISDICTION AND THE ELEVENTH AMENDMENT—*John P. Dwyer* 129
THE POWERS OF CONGRESS AND THE PRESIDENT IN INTERNATIONAL RELATIONS: REVISITED—*Stephan A. Riesenfeld* 405
RECONSTRUCTING SEXUAL EQUALITY—*Christine A. Littleton* 1279
SHARED PRIVACY AND THE FOURTH AMENDMENT, OR THE RIGHTS OF RELATIONSHIPS—*Mary I. Coombs* 1593
SHO SATO—*In Memoriam*—*Michael E. Smith* 543
SHORT TERM PAID LEAVE: A NEW APPROACH TO SOCIAL INSURANCE AND EMPLOYEE BENEFITS—*Stephen D. Sugarman* 465
SOCIAL WELFARE AND THE RATE STRUCTURE: A NEW LOOK AT PROGRESSIVE TAXATION—*Joseph Bankman & Thomas Griffith* 1905
SOME ADDITIONAL SAFEGUARDS FOR THE NEWLY LIBERATED MARKETPLACE—*Louis B. Schwartz* 1049
SOME THOUGHTS ABOUT NATURAL LAW—*Phillip E. Johnson* 217
SOME THOUGHTS ON MONOPOLY, MARKETS, AND MERGERS—*Michael Malina* 997
SQUARING UNDISCLOSED AGENCY LAW WITH CONTRACT THEORY—*Randy E. Barnett* .. 1969
STATE LAW AND "INDUSTRIAL POLICY" IN AMERICAN DEVELOPMENT, 1790-1987—*Harry N. Scheiber* 415
THE SULLIVAN APPROACH TO HORIZONTAL RESTRAINTS—*Thomas E. Kauper* 893
THE THREATENED CONSTITUTIONALIZATION OF THE INTERNAL AFFAIRS DOCTRINE IN CORPORATION LAW—*Richard M. Buxbaum* 29
VERTICAL RESTRAINTS AND THE SECULARIZATION OF ANTITRUST—*Earl E. Pollock* 951
THE VIABILITY OF THE CURRENT LAW ON HORIZONTAL RESTRAINTS—*Lawrence A. Sullivan* 835
THE VIABILITY OF VERTICAL RESTRAINTS DOCTRINE—*William F. Baxter* 933

REVIEW INDEX

BARTLETT, KATHARINE T.—*MacKinnon's Feminism: Power on Whose Terms?*—C. MacKinnon, Feminism Unmodified: Discourses on Life and Law 1559
DEVINS, NEAL—*Centralization in Education: Why Johnny Can't Spell Bureaucracy*—School Days, Rule Days: The Legalization and Regulation of Education (D. Kirp & D. Jensen eds.) 759
FLETCHER, WILLIAM A.—*Book Review*—W. Rehnquist, The Supreme Court: How It Was, How It Is 1891

NAGEL, ROBERT F.—*Teaching Tolerance*—L. Bollinger, The Tolerant Society: Freedom of Speech and Extremist Speech in America 1571
WHITE, WELSH S.—*Patterns in Capital Punishment*—F. Zimring & G. Hawkins, Capital Punishment and the American Agenda 2165

AUTHOR INDEX TO COMMENTS

BITTLE, LYNDON F.—Punitive Damages and the Eight Amendment: An Analytical Framework for Determining Excessiveness 1433
BUSH, TOM—A Privacy-Based Analysis for Aerial Surveillance Cases 1767
CLINE, DENNIS—Copyright Protection of Software in the EEC: The Competing Policies Underlying Community and National Law and the Case for Harmonization 633
COLANTUONO, MICHAEL G.—The Revision of American State Constitutions: Legislative Power, Popular Sovereignty, and Constitutional Change 1473
DIESENHAUS, JONATHAN L.—Competitor Standing to Challenge a Merger of Rivals: The Applicability of Strategic Behavior Analysis 2057
DORGAN, CARROLL—Section 2212: A Remedy For Veterans—With A Catch 1513
EDWARDS, DREW E.—Judicial Misconduct and Politics in the Federal System: A Proposal for Revising the Judicial Councils Act 1071
FLANAGAN, MARK D.—Lateral Moves and the Quest for Clients: Tort Liability of Departing Attorneys for Taking Firm Clients 1809
KINDALL, M.P.A.—Immunity of States for Noncommercial Torts: A Comparative Analysis of the International Law Commission's Draft 1849
LYON, ROBYN-MARIE—Speaking for a Child: The Role of Independent Counsel for Minors 681
MATTHEWS, MARTHA—Suicidal Competence and the Patient's Right to Refuse Lifesaving Treatment 707
MORRISON, ANDREW S.—Is Divorce Mediation the Practice of Law? A Matter of Perspective 1093
SCHWARTZ, DANIEL L.—Discrimination on Campus: A Critical Examination of Single-Sex College Social Organizations 2117

TITLE INDEX TO COMMENTS

COMPETITOR STANDING TO CHALLENGE A MERGER OF RIVALS: THE APPLICABILITY OF STRATEGIC BEHAVIOR ANALYSIS—*Jonathan L. Diesenhaus* 2057
COPYRIGHT PROTECTION OF SOFTWARE IN THE EEC: THE COMPETING POLICIES UNDERLYING COMMUNITY AND NATIONAL LAW AND THE CASE FOR HARMONIZATION—*Dennis Cline* 633
DISCRIMINATION ON CAMPUS: A CRITICAL EXAMINATION OF SINGLE-SEX COLLEGE SOCIAL ORGANIZATIONS—*Daniel L. Schwartz* 2117
IMMUNITY OF STATES FOR NONCOMMERCIAL TORTS: A COMPARATIVE ANALYSIS OF THE INTERNATIONAL LAW COMMISSION'S DRAFT—*M.P.A. Kindall* 1849
IS DIVORCE MEDIATION THE PRACTICE OF LAW? A MATTER OF PERSPECTIVE—*Andrew S. Morrison* 1093
JUDICIAL MISCONDUCT AND POLITICS IN THE FEDERAL SYSTEM: A PROPOSAL FOR REVISING THE JUDICIAL COUNCILS ACT—*Drew E. Edwards* 1071
LATERAL MOVES AND THE QUEST FOR CLIENTS: TORT LIABILITY OF DEPARTING ATTORNEYS FOR TAKING FIRM CLIENTS—*Mark D. Flanagan* 1809
A PRIVACY-BASED ANALYSIS FOR AERIAL SURVEILLANCE CASES—*Tom Bush* 1767
THE REVISION OF AMERICAN STATE CONSTITUTIONS: LEGISLATIVE POWER, POPULAR SOVEREIGNTY, AND CONSTITUTIONAL CHANGE—*Michael G. Colantuono* 1473
PUNITIVE DAMAGES AND THE EIGHT AMENDMENT: AN ANALYTICAL FRAMEWORK FOR DETERMINING EXCESSIVENESS—*Lyndon F. Bittle* 1433
SECTION 2212: A REMEDY FOR VETERANS—WITH A CATCH—*Carroll Dorgan* 1513

SPEAKING FOR A CHILD: THE ROLE OF INDEPENDENT COUNSEL FOR MINORS—*Robyn-Marie Lyon* 681
SUICIDAL COMPETENCE AND THE PATIENT'S RIGHT TO REFUSE LIFESAVING TREATMENT—*Martha Matthews* 707

INDEX OF SUBJECTS

A

ADMINISTRATION OF JUSTICE

See *Judges*

ANTITRUST

Allocative Inefficiency 251-53
Antitrust Goals 798, 836-55, 893-904, 917-23, 1006-07, 2070-75
Antitrust Rules
  Formulation 798-802
  Rules v. Discretion 836-55, 894-904, 911-13, 935-36
Comparative Advantage 983-89
Concerted Activity 855-60
Conspiracy 855-60
Deconcentration 828-29
Deregulation 882-84, 1005-68
  Airline Industry 882-84, 1007-38, 1052-53, 1062-67
  Bottlenecks 1032-44, 1055-56
  Bypassing 1027-31
  Competition and 1018-27
  Competitive Handicapping ... 1022-27, 1060
  Telecommunications Industry 1018-31, 1038-44, 1060-61
Differential Economic Federalism
  Development of 240-47
  Evaluation of 247-56
Enforcement Policy 818-33
  Cartels 818-19
  Clayton Act 2057-2115
  Chicago School 821-27
  Efficiencies and 822-23, 827, 2080-83
  Market Power and 822-23, 825-27
  Mergers 976-79, 1013-14, 2057-60, 2070-75
  Minimal Enforcement 822-27
  Output and 823-25
  Robinson-Patman Act 829-30
  Vertical Restraints ... 948-49, 952-54, 955-56
Externalities ("spill-over costs") 253-56
Horizontal Restraints ... 802, 835-915, 925-31
  Analytical Methodology 862-66
  Anticompetitive Effects 839
  Burden of Proof 846
  Chicago School 844-55, 894-913, 917-23
  Coercion 849-51, 887-88, 898-99, 910-11
  Concentrated Markets 859-60, 925-26
  Economic Analysis .. 862-66, 902-04, 917-23
  Efficiencies 838-55, 862-66, 927-28
  Enforcement Policy 925-28
  Foreign Competition 861-62, 866-82
  Franchises 888-90
  Intrabrand Competition 885-90
  Joint Bargaining 886-88
  Less Restrictive Alternatives 908-09
  Market Power 838-55, 862-66, 905-08
  Market Sharing Agreements 799, 802, 875-76
  Per Se Rules 802, 837-55, 862-63, 885, 894-95, 913-15, 925-28
  Price Fixing 799, 844-45, 884, 925
  Rule of Reason Analysis 842-44, 847-55, 913-15
Injury
See *Antitrust Standing*
Joint Ventures 802, 866-74
Jury Trial 812-14, 998, 1002
Market Definition 979-80, 988-89, 991-96, 998
Market Power
  Assessment of 905-08, 974-75, 979-80
  Bottlenecks 1032-44, 1055-56
  Definition 960
  Horizontal Restraints 838-55, 862-66, 905-08
  Requirement of 801, 825-27, 988-89
  Vertical Restraints 936-38
Mergers 806-09, 819-21, 831-32, 975-79, 1002-03, 1011-18
  Airline Industry 1011-18, 1063-65
  Competitor Standing 2057-2115
  Competitors 2057-2115
  Defenses 807-08, 977-79
  Department of Justice Merger Guidelines 807, 819-20, 976, 998-99, 1002, 2057-60
  Efficiency Considerations 806-07, 831-32, 977-78, 2080-83
  Enforcement Policy 807, 819-21, 831-32
  Failing Company Defense ... 808, 978, 1017
  Market Definition 806-08
  Strategic Behavior 2087-2115
Monopoly 959-75, 997-1003
  Attempted Monopolization . 970-75, 988, 999
  Bottlenecks 1032-44, 1050, 1055-56
  Conduct 809-11, 961-75, 999-1002
  Cross-Subsidization 1039-41, 1061
  Exclusionary Intent 963-65
  Leveraging 809-11
  Market Definition 960, 973, 979-80, 998
  Potential Entry 1062-63
  Power 809-11, 829, 960-61, 998
  Predatory Pricing 965-70, 1054-55
  Refusal to Deal 810-11, 964

Negative Commerce Clause Doctrine .. 254-55
"New Coalition" 917-23
Predatory Pricing . 821, 965-70, 1001, 1054-55
Private Enforcement .....
.....832-33, 811-15, 2057-2115
Regulation 1006-11, 1043-44
Resale Price Maintenance. 799, 830-31, 933-57
Standing 2057-2115
State Action Doctrine
Development of 234-40
Federalism and 229-34
Strategic Behavior 2087-2115
Summary Judgment 814-15, 930
Treble Damages..... 811-12, 930-31, 991
Tying Arrangements .....
..... 800, 805-06, 888-90, 939-40
Vertical Restraints... 799, 802-05, 895, 933-57
See also *Resale Price Maintenance*
Analysis 933-50
Burden of Proof..... 948-49, 957
Cartels 830-31, 942-47
Customer Restrictions..... 803-04, 935, 939
Defenses 948-49
Enforcement Policy ..948-49, 952-54, 955-56
Exclusive Dealing 935, 943-44
Franchises 888-90
History 933-36, 951-54
Legislative Inaction 949-50
Market Power 936-38
Per Se Rules.....830-31, 935-36, 951-52
Territorial Restrictions 803-04, 935, 939
Tying Arrangements .....
..... 800, 805-06, 888-90, 939-48

APPEAL AND ERROR

Discretion..... 72-73

ATTORNEYS

See also *Legal History*
Divorce Mediation as the Practice of Law..... 1114-15, 1120-26
Liability for Intentional Interference With Economic Relations..... 1825
Representation of Minors..... 681
Separate Standard of Tort Liability.... 1841

B

BANKRUPTCY

Claims Classification 391-404

BILINGUAL EDUCATION

English-Only Movements .....
.....339-41, 353-55, 360-62
Litigation 333-39, 350-53, 357-60
Policymaking 326-33, 346-50, 355-57
Status Conflict Analysis of 346-62

C

CAPITAL PUNISHMENT

Around the World..... 2167
Constitutionality 2174-77
Discriminatory Application 2180-85
Geographic Distribution in U.S. 2168-74
Inconsistency 88-89
Sentencing Guidelines 2177-80

CHILDREN

See also *Guardian and Ward, Family Law*
Inconsistent Decisions Regarding 89-91
Legal Competence..... 696
Use of Independent Counsel..... 681

CIVIL PROCEDURE

See also *Corporations, Constitutional Law, Antitrust*
Federal Jurisdiction
Justifications For Pendent Jurisdiction
..... 152-61
Pendent Jurisdiction Doctrine 142-44

CIVIL RIGHTS

Sexual Equality .....
.. 1287-91, 1304-11, 1316-17, 1321, 1324-32

COMMON LAW

Duress 272-74
Evolution of Doctrine..... 2000-03
Informed Consent .....
..... 720-22, 728, 737, 753, 755-57
Right of Bodily Self-Determination....
..... 720-23, 728, 734, 746-53

CONFLICT OF LAWS

See *Corporations*

CONFLICTS OF INTERESTS

See *Legal Ethics*

CONSTITUTIONAL LAW

See also *Antitrust, Corporations, Equal Protection, Judges, Jurisprudence, Legal History, Searches & Seizures, Suicide*
Eighth Amendment
Cruel and Unusual Punishment Clause
..... 1440-45, 1448-52
Excessive Fines Clause 1439-55
Application to Civil Actions..... 1441-45
Mendoza-Martinez Criteria for Identifying Penal Sanctions 1443-47
Proportionality Principle.. 1448-55, 1470-71
Punitive Damages and 1455-71
Eleventh Amendment

Tension Between Fourteenth Amendment and 131
Enjoining Enforcement of State Law... 131-34
Establishment Clause 5-14
Executive and Legislative Powers in International Relations 405-14
Federal Aid for Parochial Schools..... 5-14
Federalism 1473-75
Fourteenth Amendment
Tension Between Eleventh Amendment and 131
Freedom of Association
Application to Fraternities and Sororities..... 2139-50
Right of Expressive Association.... 2147-50
Right of Intimate Association 2142-47
Institutional Reform Doctrine 134-35
Institutional Reform Litigation
See also *Limitation of Suits*
Federal Jurisdiction and 158-61
Generally 129-31
Restrictions on..... 135-38
Institutional Relief
Impact on State Sovereignty..... 161-67
Limitation of Suits Against the State
Institutional Reform and 151-67
Pendent Jurisdiction and 152-61
Rationale for 145-51
Right of Privacy 711, 714-16, 722-23, 750
Separation of Powers..... 1242-48, 1518-20
Congressional Infringement on the Judicial Power 1525-39
Retroactive Laws..... 1520-25
State Action Doctrine
Application to Colleges and Universities..... 2151-58
Symbiotic Relationship Test..... 2151-55
States
Amendment and Revision 1473-1512
Takings
Just Compensation 1555-57
Nature of Fifth Amendment Property 1540-46
Protection for Cause of Action in Tort 1546-55
Ultra Vires Doctrine..... 140-42

CONTRACTS

Assumpsit..... 1999-2000
Contract Theory
Consent Theory of Contract..... 1978-79
Undisclosed Agency Law and 1971-99
Long Term Contracts 2005-54
Bargain Theory 2009-12
Game Theory..... 2022-30
Negotiations..... 2046-53
Risk-Allocation 2012-22, 2030-46

COPYRIGHT

See also *International Law, Licenses, Treaties*
Belgium 656-57
Denmark 654-55
Derivative Works 657-61
Duration of Protection
European Countries..... 661-62
European Economic Community..... 633-80
France 648-51
Germany 646-48
Greece 656
Ireland 655
Italy 653-54
Luxembourg..... 656-57
Netherlands 652-53
Portugal 655-56
Software Protection..... 633-80
Spain..... 655
United Kingdom 651-52

CORPORATIONS

Conflict of Laws
Commerce Clause Analysis 47-57
Full Faith and Credit Jurisprudence . 35-47
Corporate Governance Rules
Indeterminacy of Courts' Doctrinal Statements 593-601, 604-07
Investor Reaction to Changes 553, 561, 566-93, 601-04, 607
Objective of 551, 593-94
Proper Role of.....551-52, 590, 594
Selected Changes in Delaware Law .. 569-79
Systematic Impact of... 557-59, 591-94, 607
Cumulative Voting 40-43
Forum Non Conveniens 47-50
Market for Corporate Charters 553-59
Race to the Bottom Hypothesis..... ..... 554-55, 560-61, 590-91, 602-03
Winter, Ralph 556-57, 560-61, 589-91
Market Studies Concerning the Effects of Reincorporation in Delaware 559-66
Market Study Concerning the Effects of Changes in Delaware Corporate Law 566-87
Structure
Contract Theory 552-54, 557-58, 566, 588, 590, 594, 604
Takeovers
Factors Affecting Susceptibility 584-85
Proper Role of Management 557

COURTS

See also *Judges*
U.S. Supreme Court 1891-1902

CRIMINAL LAW

See also *Due Process*
Excuse as a Defense 1600-05
Insanity, Legal 278-83
Involuntariness 266, 283-89
Reasonableness Standard 274
Social Deprivation 283-84
Strict Liability 267-69, 271

CRIMINAL PROCEDURE

Exclusionary Rule 1600-05
Searches and Seizures 1593-1663

D

DAMAGES

Antitrust 811-12, 930-31, 991
Arrests ..... 5 on 3/22/88
Punitive Damages
As Equivalent to "Fines" 1446-47
Historical Development 1434-39
Standards for Assessing .. 1436-37, 1455-71
Culpability of Conduct 1436, 1461-64
Relation to Compensatory Damages 1464-70
Wealth of the Defendant 1457-61

DEFAULT JUDGMENT

Calif. L. Rev. over Stan. L. Rev.... by default

DUE PROCESS

Adjudication of Minors 687
Burden of Proof
Affirmative Defenses 1671-79, 1704-08
Enforcement 1690-93
Legislative Compromise 1708-12
Reasonable Doubt 1667-79, 1693-97, 1705-08
Shifting the Burden 1669-79, 1704-12
Federalism 1687-90, 1696-97
Judicial Sentencing 1697-1703
Legality Principle 1680-87, 1693-1703, 1714-17
Legislative Grading Decisions of Criminal Offenses 1697-1703

E

ELECTIONS

Democratic Theory 1499-1511

EQUAL PROTECTION

Application to Fraternities and Sororities 2150-63
Application to Gender Classification .. 2158-63
Intermediate Scrutiny Test 2158-63
Medical Cost Containment and Standard of Care 1738-44
Requirement of State Action 2151-58

EVIDENCE

Hearsay Exceptions
Ancient Documents 1408-09
Business Records 1397-99
Dying Declarations 1403-05
Excited Utterances 1403-05
Former Testimony 1413-14
Learned Treatises 1399-1400
Medical Statements 1403-05
Opponent's Statements 1409-12
Personal History 1406-07
Present Sense Impressions 1400-02
Prior Statements 1394-97
Public Records and Documents 1415-19
Residual Exceptions 1423-27
State of Mind 1406-07
Statements Against Interest 1406-07
Hearsay Rule 1339-1428
Abolition of 498-519
Definition 1390-94
History of 1343-47
Prior Judgments 1420-22

F

FAMILY LAW

Criminalization of Family Violence 534-39
Divorce Mediation 1093-1155
Equality of Spouses 299-309
Privacy and the Family 521-39
Representation of Minors 686
Spousal Support 310-19
"Children-First" Principle 317-19
Homemaking Spouse 316-17
Professional Degrees 310-15

FEDERAL COURTS

See *Constitutional Law*

G

GUARDIAN AND WARD

See also *Family Law*
Legal Rights of Minors 682
Limitations on Parental Rights 684

I

INTERNATIONAL LAW

See also *Copyright, Licenses, Treaties, Statutes*
Copyright 633-80
Immunities of States 1849-89

Execution of Judgments 1862-89
Noncommercial Torts Exception ... 1853-62

J

JUDGES

Involvement of Judges in Political Activity 1072-76
Judicial Councils Reform and Judicial Conduct and Disability Act of 1980
Constitutionality 1077-79, 1083-88
Critique 1083-88
Description 1077-79
Potential for Abuse 1080-82
Proposed Revision 1088-91
Rehnquist, Chief Justice 1891-1902

JURISDICTION

Antitrust
Foreign Firms 876-77
Diversity 118-21
Local Action Rule 121-23

JURISPRUDENCE

Aristotle
Consistency 59
Consistency
See also *Inconsistency*
As a Content-Neutral Maxim 104-06
As a Moral Good 98-107
Human Nature 102-04
Private Decisionmaking 92-95
Reasonable Reliance as Grounds for . 64
Court Imposed Compromise 77
Critical Legal Studies
Attack on Liberalism 609-30
Coke, Edward 624-26
Gabel, Peter 610, 624
Hobbes, Thomas 612-13, 615-16
Interpretation of Legal Doctrine 611, 623-29
Interpretation of Liberal Doctrine ... 611-30
Kennedy, Duncan . 610-11, 613, 620, 623-24
Klare, Karl 610
Locke, John 614, 616, 619, 621-22
Mill, John Stuart 621-22
Smith, Adam 616-17
Tushnet, Mark 610, 628-29
Unger, Roberto 609, 612, 618, 623-24
Dworkin, Ronald 70, 75, 77, 100-02
Equality Theory 1279-1337
Feminist Jurisprudence 1279-1337, 1559-70, 1593-1600, 1649-63
Abortion 1564
Epistemology 1562
Pornography 1560
Freedom of Speech 1571-83
Greenawalt, Kent 61, 63-64
Inconsistency
See also *Consistency*
Definition of 65-75
Discretionary Sentencing 83-87
Effect on Rational Rulemaking 96
Forms of Punishment 87-92
Juries 79-83, 97
Jury Instructions 81-82
Leeway in Rules 97-98
Uses of 107-13
Interpretations of Consistency 60-62
Just Society Through Just Individuals . 222-26
Liberal Freedom 222-23, 225
Natural Law 217-26
As Legalistic 219-22, 225
Reasoning 218-19
Privacy 1593-1663
Rational Needs Approach 220-24
Reason 217
Relativism 219
Religion, Law and 169-83
Social Science, Law and 363-77
Wealth Distribution 220-24

JURY TRIAL

Antitrust 812-14, 998, 1002

JUVENILE COURTS

See also *Guardian and Ward*
Counsel for Minors 687

L

LABOR LAW

Employee Benefits 465-94

LEGAL ETHICS

Attorney Relations With Prospective Clients 1819
Conflicts of Interest
Divorce Mediation 1134-38, 1140-43
Divorce Mediation
MODEL CODE OF PROFESSIONAL RESPONSIBILITY and 1127-40
MODEL RULES OF PROFESSIONAL CONDUCT and 1140-43
STANDARDS OF PRACTICE FOR LAWYER MEDIATORS IN FAMILY DISPUTES and 1144-55
Unauthorized Practice of Law 1096-1120
Violations of Ethical Rules as Basis of Liability for Intentional Interference With Economic Relations 1836

LEGAL HISTORY

See also *Constitutional Law, Damages*
Common Law
Commercial Comprehensive Reporting 20-22
Early Reporting 15-17
Effect of Comprehensive Reporting .. 22-25
Nominative Case Reporting 17-20
Official Reports 20
On-Line Reporting 25-27
Politival Activity of Supreme Court Justices 1073-75
Popular Image of Lawyers 379-89
State Economic Intervention
Current Problem Areas 435-44
Diffusion of Power 418-25
Evaluation of State Performance 434-35
State Policy and Modern Constitutional Order 425-34

LEGAL THEORY

See also *Jurisprudence*
Role of 2000-03

LICENSES

See also *Copyright, International Law, Treaties*
Software Protection
European 662-69

M

MALPRACTICE

See also *Equal Protection*
Conflict Between Physician's Fiscal and Fiduciary Duties 1727-29, 1762
Medical Cost Containment and Standard of Care 1729-38, 1745-62
Stratified Scarcity in Medical Care ... 1719-27

N

NEGLIGENCE

See *Equal Protection, Malpractice*

P

PLEADING

Fictional 121-22

POWERS

Presidential Power 1162-1278

PRINCIPAL AND AGENT

Undisclosed Agency Law
The "Anomaly" of 1971-74
Contract Theory and 1974-78
Undisclosed Agency Relationship 1979-84

PROPERTY

See also *Constitutional Law*
Lockeian Philosophy of 1789-91

PUBLIC UTILITIES

Deregulation 1005-68
Telecommunications 1008-11, 1018-31, 1038-44, 1050, 1054, 1060-61

S

SCHOOLS

Centralization in Education
Appropriate Role of 760, 762
Cost of 766-76
Dimensions of 762-66
Education for All Handicapped Act . 771-73
Judicial Rules 762-65, 767-73
Pitfalls of 760-61
Regulation and Legislation .. 763-64, 773-76
Decentralization Litigation 762-63, 767-70
New Federalism 765-66
Public Education 759-84

SEARCHES & SEIZURES

See also *Criminal Procedure*
Katz Doctrine 1769-70
Open Fields Doctrine 1769
Warrantless Aerial Surveillance 1767-68
Katz Doctrine Applied to 1772-77
Open Fields Doctrine Applied to 1777-81, 1783-86
Property Concepts Applied to ... 1793-1801

SECURED TRANSACTIONS

Mixed Collateral
History of 193-99
Origin of 187-89
Mixed Collateral Amendments
Operation of 199-209
Origin of 190-93
Precedent and 209-15

SOCIAL WELFARE

Communitarian Morality
Character and Civic Virtue 454-57
Community of Reason 457-62
Morality and Selfhood 450-53
Sociology and 447-50
State's Interest in Preserving Life . 729-30, 744

STATUTES

Foreign Trade

Economic Sanctions 1162-1278
Public Accommodations Statutes
Application to Fraternities and Sororities 2124-39
Private Club Exemption 2131-39
Prohibition of Gender Discrimination 2124-39

SUICIDE

See also *Common Law, Constitutional Law, Social Welfare*
Bouvia, Elizabeth 707-08, 711-19, 721, 732, 736, 738, 755-57
Competence ... 709-10, 724-28, 747-48, 752-57
Refusal of Treatment as 710-11, 735-43
Refusal of Treatment Cases 709, 711-18, 731-33, 735, 755-58
State's Interest in Prevention 735-53

T

TAXATION

Econometrics—Optimal Taxation Analysis 1945-67
Federal Income Tax
Distributive Aspects 1919-41
Enforcement and Compliance 1941-44
Normative Aspects 1910-18
Progressive Taxation 1905-67
Proportional Taxation 1910-15

TORTS

See also *Attorneys, Constitutional Law, Equal Protection, Malpractice*
Intentional Interference With Contractual Relations 1813
Intentional Interference With Prospective Economic Relations 1813
"Wrongful" Conduct as Basis of Liability for Intentional Interference With Economic Relations 1834

TREATIES

See also *Copyright, International Law, Licenses*
European Economic Community
Copyright 640
Trade 1208-13, 1265-68